

PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

December 4, 2002

Agenda ID #1496

TO: PARTIES OF RECORD IN APPLICATION 00-05-013

This is the proposed decision of Administrative Law Judge (ALJ) Galvin, previously designated as the principal hearing officer in this proceeding. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. This matter was categorized as ratesetting and is subject to Pub. Util. Code § 1701.3(c). Pursuant to Resolution ALJ-180, a Ratesetting Deliberative Meeting to consider this matter may be held upon the request of any Commissioner. If that occurs, the Commission will prepare and mail an agenda for the Ratesetting Deliberative Meeting 10 days before hand, and will advise the parties of this fact, and of the related ex parte communications prohibition period.

The Commission may act at the regular meeting, or it may postpone action until later. If action is postponed, the Commission will announce whether and when there will be a further prohibition on communications.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ CAROL A. BROWNCarol A. Brown, Interim Chief
Administrative Law Judge

CAB:sid

Decision **PROPOSED DECISION OF ALJ GALVIN** (Mailed 12/4/2002)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for (i) Authority to Establish Its Authorized Rates of Return on Common Equity and for Electric Distribution and Gas Distribution for Year 2001, and (ii) Adoption of an Annual Cost of Capital Adjustment Mechanism. (U 39 M)

Application 00-05-013
(Filed May 8, 2000)

Shirley Woo, Attorney at Law, for Pacific Gas and Electric Company, applicant.

James Weil, for Aglet Consumer Alliance; Department of Navy, by Norman J. Furuta, Attorney at Law, for Federal Executive Agencies; and Ron Knecht and Ray Czahar, for themselves; interested parties.

Robert C. Cagen, Attorney at Law, for the Office of Ratepayer Advocates.

OPINION DISMISSING APPLICATION**Summary**

This decision dismisses Pacific Gas and Electric Company's (PG&E) application seeking a 2001 test year Return On Equity (ROE).

Background

On May 8, 2000, PG&E filed an application for authority to establish a 2001 test year ROE. A Prehearing Conference was held on June 29, 2000, and an evidentiary hearing on September 25, 2000 through September 30, 2000. A proposed decision was issued on March 6, 2001.

Interested parties were invited to comment on the proposed decision and on events that impacted PG&E's ability to attract capital subsequent to the submittal date of the proceeding. Nonsubstantive changes were made to the proposed decision and the matter was placed on the Commission's April 19, 2001, meeting for action.

On April 6, 2001, and subsequent to the receipt of comments to the proposed decision, PG&E filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Court of the Northern District of California (Bankruptcy Court). That filing resulted in deferral of action on PG&E's 2001 test year ROE to the Commission's May 14, 2001 meeting and again to its May 24, 2001 meeting, at which time the proposed decision was withdrawn from consideration.

On May 9, 2002, PG&E filed a similar application for its 2003 test year. The Commission has acted on this latter application, which included testimony on impacts of the bankruptcy filing, as set forth in Decision (D.) 02-11-027. The decision establishes a 2003 test year ROE of 11.22% for PG&E. It also establishes a provision to true up PG&E's ROE as soon as it implements a financing plan approved by the Bankruptcy Court. Action on Application 00-05-013 is still pending.

Discussion

It is a well-established principle of this Commission that ratemaking is generally done on a prospective rather than retroactive basis. No useful purpose would be served by further consideration of PG&E's 2001 proceeding with this ROE application. Therefore, this application should be dismissed.

Comments on Proposed Decision

The principal hearing officer's proposed decision on this matter was filed and served pursuant to Pub. Util. Code § 311(d) and Rule 77.2 of the Commission's Rules.

Assignment of Proceeding

Carl Wood is the Assigned Commissioner and Michael Galvin is the assigned ALJ in this proceeding.

Findings of Fact

1. PG&E filed an application seeking a 2001 test year ROE.
2. On April 6, 2001 PG&E filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code with the Bankruptcy Court.
3. Action on PG&E's 2001 test year ROE was held over to the Commission's May 14, 2001 meeting and again to its May 24, 2001 meeting, at which time the proposed decision was withdrawn from consideration due to PG&E's bankruptcy filing.
4. D.02-11-027 established a 2003 test year ROE for PG&E.
5. Ratemaking is generally done on a prospective basis. There is no reason for any further consideration of a change in PG&E's 2001 ROE.

Conclusions of Law

1. A.00-05-013 should be dismissed.
2. This order should be effective today, in order to allow the docket to be closed expeditiously.

O R D E R

IT IS ORDERED that:

1. This proceeding is dismissed.
2. Application 00-05-013 is closed.

This order is effective today.

Dated _____, at San Francisco, California.